HIGH COURT OF UTARANCHAL AT NAINITAL

Writ Petition No. 3622 (M/S) of 2001
Old CMWP No. 14274 of 1992

Sri Amar Singh S/O Sri Uttam Singh,
Resident of Gopal Nagar, Tahisl Gadarpur,
District Nainital.

....**Petitioner**

Vs

1. The State of U.P.
2. The Prescribed Authority /Sub-Divisional Officer Kichha, Rudrapur, District Nainital.

.....**Respondents**

Sri M.S.Pal, Sr.Adv., assisted by Sri C.S.Bagadwal, learned counsel for petitioner.
Sri Nand Prasad, leanred Standing Counsel for the respondents.

Date May 25, 2006.
PC: Hon'ble B.S. Verma, J.

This writ petition has been filed for quashing the impugned notice dated 30-3-1986 (Annexure No. I) as well as order dated 18-02-1992 to the writ petition passed by the Prescribed Authority. By the order dated 18-2-1992, the Prescribed Authority passed an order to take possession of the disputed premises from the petitioner.

The record shows that proceedings under Sections 4/5 of the U.P.Act No. XXII of 1972 were drawn against the petitioner by the Prescribed Authority and a notice under Section 4 (1) of the said Act was issued to show cause as to why the petitioner be not evicted from the public premises. The case was registered as Eviction Case No. 22/86 of 1975-76 and was contested by the petitioner before the Prescribed Authority. Ultimately, the order of eviction was passed against the petitioner vide order dated 23.8.1977. Aggrieved by the said order, the petitioner went up in appeal before the District Judge Nainital, who dismissed the appeal for default of the appellant-petitioner vide order dated 1-3-1978. Consequently, the Prescribed Authority passed by impugned order dated 18-2-1992.

I have heard the submissions of the learned counsel for the petitioner as well as learned Standing Counsel appearing on behalf of the respondents-State and perused the record.

At the outset, it may be mentioned that this Court vide judgment delivered today, i.e. on 25-5-2006 in Writ Petition No. 3235 (M/S) of 2001 Krishna Kant Vs. I Additional District Judge Nainital and others along with 42 other writ petitions have already considered the controversy involved in the present writ petition. All the 43 writ petitions preferred by different petitioners were allowed by that common judgment and it was held that the provisions of the U.P. Public Premises (Eviction of Unauthorised Occupants) Act, 1972 were not applicable to the agricultural land and it was open to the State to proceed for eviction of the petitioners under the provisions of the U.P. Zamindari Abolition and Land Reforms Act/**KUZA** Act and other allied laws in force. It was also observed therein that the petitioners may also get their title declared by filing suit under Section 229-B of the Z.A. & L.R. Act/KUZA Act, provided they establish their stand before the Revenue Court. The learned counsel for the petitioner has submitted that the present writ petition is similar to the writ petitions already decided by this Court today, therefore, this case be decided in terms of the judgment passed in Writ Petition No. 3235 of 2001 (M/S). The learned Standing Counsel fairly conceded to this fact in the course of arguments.

In view of the fact that this Court has already decided as many as 43 similar writ petition by a common judgment today coupled with the submissions made by the learned counsel for the petitioner, there is no need to repeat the same material again in the case at hand. The present writ petition is fully covered by the judgment passed in Writ Petition No. 3235 (M/S) of 2001, Krishna Kant Vs. I Additional District Judge Nainital and others along with

42 other writ petitions decided by this Court today itself. This writ petition deserves to be allowed on merit in terms of the said judgment.

The present writ petition stands allowed in terms of the judgment passed by this Court in Writ petition No. 3235 (M/S) of 2001, Krishna Kant Vs. I Additional District Judge Nainital. No order as to costs.

(B.S.Verma, J.)

RCP